

LATHAM & WATKINS LLP

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Attorneys for Defendants

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC and
Bernard L. Madoff,

Plaintiff,

v.

ABN AMRO BANK (IRELAND) LTD., (f/k/a FORTIS
PRIME FUND SOLUTIONS BANK (IRELAND
LIMITED) and ABN AMRO CUSTODIAL SERVICES
(IRELAND), LTD (f/k/a FORTIS PRIME FUND
SOLUTIONS CUSTODIAL SERVICES (IRELAND)
LTD.),

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05355 (SMB)

**DEFENDANTS' COUNTER-
DESIGNATION OF
ADDITIONAL ITEMS TO BE
INCLUDED IN THE RECORD
ON APPEAL**

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, Defendants ABN AMRO Bank (Ireland) Ltd. (f/k/a Fortis Prime Fund Solutions Bank (Ireland) Ltd.) (n/k/a ABN AMRO Retained Custodial Services (Ireland) Limited) and ABN AMRO Custodial Services (Ireland) Ltd. (f/k/a Fortis Prime Fund Solutions Custodial Services (Ireland) Ltd.) (the “ABN AMRO Defendants”), by and through their undersigned counsel, respectfully submit the following counter-designation of items to be included in the record (“ABN AMRO Defendants’ Counter-Designation”) with respect to Irving H. Picard’s (the “Trustee”) appeal in the above captioned adversary proceeding of the Stipulated Final Order Granting Motion to Dismiss Complaint (ECF No. 119) (the “Final Judgment”)¹ before the United States Court of Appeals for the Second Circuit (the “Court of Appeals”) or, if the Court of Appeals does not accept jurisdiction, the United States District Court for the Southern District of New York.

**COUNTER-DESIGNATION OF ITEMS TO BE
INCLUDED IN THE RECORD ON APPEAL**²

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Trustee's Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 124);
2. The Certification of Direct Appeal to Court of Appeals (ECF No. 126); and

¹ Unless otherwise stated, citations to (ECF No. __) refer to docket entries in the proceeding captioned *Picard v. ABN AMRO Bank (Ireland) Ltd.*, Adv. Pro. No. 10-05355 (Bankr. S.D.N.Y.).

² Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

3. The April 8, 2016 Letter on Behalf of the Subsequent Transferee Defendants in Response to Mr. Sheehan's April 7, 2016 Letter (*Secs. Inv. Protection Corp. v. Bernard L. Madoff Inv. Secs., LLC*, Adv. Pro. No. 08-01789 (SMB), ECF No. 13070).

RESERVATION OF RIGHTS

The ABN AMRO Defendants expressly reserve the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

Dated: April 11, 2017
New York, New York

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